

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:

**MID-CONTINENT SCREW PRODUCTS
CO.,**

Debtor.

**Norman B. Newman, not individually but
solely as the Chapter 7 Trustee for Mid-
Continent Screw Products Co.,**

Plaintiff,

v.

**J.M. Die Tooling Co.,
Chatham Holdings, Ltd. d/b/a Chatham
Imports, Ltd.,
Cincinnati Metals Company, Inc.,
V&W Machining, Inc., and
ND Industries, Inc.**

Defendants.

Chapter 7

Case No. 02 B 21587

Hon. Jack B. Schmetterer

Adversary Numbers

04A02797

04A02808

04A02810

04A02822

04A02833

**UNDISPUTED FINDINGS OF FACT ON TWO COMMON ISSUES
AND CONCLUSIONS OF LAW**

This matter coming before the Court on the Trustee's Motion for Partial Summary Judgment as to Paragraphs 14 and 15 of the Adversary Complaints to Avoid and Recover Preferential Transfers (the "Motion"); there being no responses or objection to the Motion by the defendants in the above-captioned adversary proceedings (the "Defendants"); from the material submitted, the Court finds that the following material facts exist without substantial controversy and upon trial of these matters, the facts so specified shall be deemed established:

1. On June 3, 2002 (the "Petition Date"), the Debtor filed a voluntary petition under chapter 11 of title 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as

amended.

2. On July 2, 2002, the Debtor filed its bankruptcy schedules.
3. The President of the Debtor, Michael King, signed and swore to the truth of the Debtor's bankruptcy schedules.
4. On September 4, 2003, the Court entered an order converting this case to a case under chapter 7 of title 11 of the Bankruptcy Code.
5. The Trustee was subsequently appointed interim Trustee.
6. Each of the Defendants received at least one transfer of property of the Debtor (the "Transfers") during the 90 days before the Petition Date (the "Preference Period").
7. On May 18, 2004, the Trustee filed complaints against the Defendants seeking to avoid and recover the Transfers (the "Complaints").
8. On December 9, 2004, the Trustee propounded requests for admission and an interrogatory (the "Requests") on each of the Defendants.
9. Defendants J.M. Die Tooling Co., Chatham Holdings, Ltd. d/b/a Chatham Imports, Ltd., V&W Machining, Inc., and ND Industries, Inc. responded to the Requests (the "Responses"). None of these Defendants supplemented its Response. Defendant Cincinnati Metals Company, Inc. never responded to the Requests.
10. As of the Petition Date, the Debtor scheduled \$4,785,675.88 in assets and \$6,579,950.18 in liabilities.
11. The Debtor's liabilities exceeded the then current market value of its assets by \$1,794,274.30.
12. On the Petition Date, the Debtor's financial condition was such that the sum of its debts was greater than all of its property, at a fair valuation.

13. Thus, the Debtor was insolvent as defined by 11 U.S.C. § 101(32)(A) on the Petition Date.

14. None of the Defendants has come forward with any evidence to show that the Debtor was solvent on the Petition Date or during the Preference Period.

15. Thus, at the time of the Transfers, the Debtor was insolvent.

16. As of the Petition Date, the Debtor scheduled \$4,517,912.17 in secured debt and \$2,062,038.01 in unsecured debt.

17. As of the Petition Date, setting off the secured debt against the market value of the assets would leave only \$267,763.71 for unsecured creditors.

18. Currently, the claims filed in this case, including unsecured, secured, priority, and unknown claims, total \$13,387,244.31. The amount of secured claims filed in this case totals \$9,267,299.50.

19. The distribution to unsecured creditors will be less than 100% of the unsecured creditor claims.

20. The Transfers enabled the Defendants to receive more than they would have received if (a) the Transfers had not been made; (b) if this were a chapter 7 case; and (c) they received payment of such debt to the extent provided by the provisions of title 11.

ENTER:

United States Bankruptcy Judge

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